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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/076,347	02/19/2002	Christopher J. Tatar	FS-00689	1368

7590 09/24/2003

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EXAMINER

SHARMA, RASHMI K

ART UNIT

PAPER NUMBER

3651

DATE MAILED: 09/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Office Action Summary**Application No.  
**10/076,347**Applicant(s)  
**Tatar et al.**Examiner  
**Rashmi Sharma**Art Unit  
**3651**

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on Feb 19, 2002
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11, 14-16, and 18-22 is/are rejected.
- 7) ☒ Claim(s) 12, 13, and 17 is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Mar 21, 2002 is/are a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4                      6) ☐ Other:

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## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to because the word "Monitor" in figure 7 is not spelled correctly. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the hoods must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

3. Claim 3 is objected to because of the following informalities: line 2 of claim 3 reads "so that a item can pass". It should read "so that an item can pass". Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3, 5-11 and 18-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Finch, Jr. (US patent number 5,620,102).

Finch Jr. discloses a conveyor sorting system and diverting mechanism for packages comprising a frame member adapted for use with an existing conveyor system (18) for transporting an item in an original direction (here, the direction of conveyance in figure 1), a bi-directional movable diverting mechanism (36) extending from the frame being movable in at least one direction perpendicular to the conveying direction and another direction perpendicular to the conveying direction, opposite that of the first direction. The movable diverting mechanism (36) remains stationary allowing items conveyed to pass through without being diverted, a mounting mechanism (38), an actuator (48 or 50) and a gliding mechanism (see column 3 lines 39-67) to move the movable diverting mechanism (36), a plurality of sensors (90, 90A, 92, 92A) for determining whether a current associated with the actuator exceeds a threshold limit (see column 3 lines 25-34) and controlling when the diverting mechanism (36) should be activated.

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Finch Jr. also discloses classification information associated with the item allowing the diverting mechanism (36) to be activated accordingly and a jam detection sensor (90-92) for detecting jams exceeding a threshold characteristic (see column 3 lines 12-21).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 4 and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Finch Jr. (US patent number 5,620,102).

Finch Jr. as disclosed above, fails to show a downwardly extending blade as the diverting mechanism.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Finch Jr.'s blade or diverting mechanism (36) to be above the conveyor system in order to provide a more easily accessible bi-directional diverting mechanism for better cleaning and maintenance.

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*Allowable Subject Matter*

8. Claims 12, 13 and 17 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. The following is a statement of reasons for the indication of allowable subject matter:

Dependent claims 12, 13 and 17 recite the structural limitations of the package diverting mechanism comprising safety hoods, in combination with the independent claim or any intervening claims, clearly defines over the prior art.

*Conclusion*

10. Any inquiry concerning this communication should be directed to Rashmi Sharma who can be reached at 703-306-5952 Monday through Friday.

Any general inquiry concerning the status of this application should be directed to the Group receptionist Monday through Friday at 703-308-1113.



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